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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,621

07/25/2006

Hubert Moriceau

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EXAMINER

PATEL, REEMA

ART UNIT

PAPER NUMBER

2812

MAIL DATE

DELIVERY MODE

08/05/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/565,621</p>	<p><b>Applicant(s)</b> MORICEAU ET AL.</p>	
	<p><b>Examiner</b> REEMA PATEL</p>	<p><b>Art Unit</b> 2812</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1,5-8 and 11-26.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Walter L. Lindsay, Jr./  
Primary Examiner, Art Unit 2812

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding the claim 1 rejection, Applicant argues that the term "faces" in claim 1 necessarily means that the roughened portion of the first plate is opposite to the second plate with no intervening structures between the surfaces of the plates. The Examiner disagrees with this narrow interpretation of the word "face" and in the course of the broadest reasonable interpretation, interprets the word "face" to mean overlap but not necessarily with the limitation that there are no intervening layers.

Applicant attempts to support the narrow definition of the word "face" by referencing the Specification (Remarks, pg. 5) and particularly Figures 3 and 4. Examiner agrees that these figures disclose the sacrificial layer (3) but feels that they do not adequately support Applicant's definition of "faces" to indicate no intervening structures. Figures 3 and 4 do not even illustrate a second plate (5) and as such, they cannot disclose the surfaces and the second plates facing each other. Applicant further points to a passages in the (Substitute) Specification (pg. 7, lines 20-25) which indicates that the two plates have "facing surfaces" but this by itself does not offer support that "facing" in this context implies no intervening structures in between.

Applicant further asserts that one skilled in the art would understand "facing" to mean with no intervening structures in between based on the plain and ordinary meaning of the word "face" in Webster's Third New International Dictionary (Remarks, pg. 6). Applicant indicates the word 'face' is defined as "to stand or sit opposite to" and the word 'opposite' is defined as "set over or against something that is at the other end or side of an intervening line or space." (Remarks, pg. 6). The Examiner still does not find adequate support since something can be set over or on the other side of another thing with intervening materials in between.

Regarding the claim 26 rejection, since the Examiner interprets the term "face" from claim 1 to not imply no intervening layers in between, the reference Shimada et al. used in rejection of this product-by-process claim does not require partially removing a peeling layer (4, Fig. 1E) or light blocking layer (5, Fig. 1E).

/RP/